

TOWING AND TOWING BUSINESS

Chapter 220

From the

CODE

of the

TOWN OF WINDHAM

COUNTY OF CUMBERLAND

STATE OF MAINE

TOWING AND TOWING BUSINESS

Chapter 220

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(History: Adopted by the Town Council of the Town of Windham 2-25-86. Amendments noted where applicable, items noted with underline ammended 4/10/95.)

The Town Council adopted a fee schedule by order 15-144 on 10/13/2015. Please see the attached memo at the end of this document.

General References

Vehicles and traffic – See Ch 227

§220.1 Purpose.

In order to protect persons who operate motor vehicles within the town limits; to ensure that the streets, public ways and public property of the town remain open and free of hazard to the public; and to further effectuate the enforcement of the town's traffic, parking, snow removal and other regulatory ordinances, it is determined necessary to register and regulate business engaged in vehicle wrecker and towing services. The following regulations are promulgated by the Town of Windham for that purpose.

§220.2 Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

ADEQUATE EQUIPMENT – Equipment capable of accomplishing the following.

A Hoist and remove, by straight tow, a disabled vehicle

- B Hoist and remove a vehicle which cannot be removed on its own wheels through the use of dolly wheels
- C Hoist and remove a vehicle which is off the side of a roadway and down an incline or in a similar situation that prohibits a straight tow.

NON-PREFERENCE REQUEST – When a vehicle operator does not designate a specific towing business or auto club or similar entity that provides roadside service, the request shall be considered a non-preference request by the Town, thereby subject to the town’s towing rotation list.

TELEPHONE REQUEST, FAILURES TO RESPOND AND PERFORMANCE DEBITS – The dispatcher shall dial a single and separate telephone number when contacting each towing business. This telephone call shall be considered a telephone request. If the telephone request is not confirmed within three (3) minutes the lack of response shall be considered a Failure to Respond – Level A subject to two (2) performance debits. If the towing business is unable to or chooses not to accept the request for service and they respond to the telephone request within the three (3) minute time frame, it shall be considered as a Failure to Respond – Level B subject to one (1) performance debit.

TOWING ROTATION LIST – A list maintained by the Police Department containing the names of those towing businesses licensed by the town to respond to non-preference requests for the towing of vehicles at the request of the Police Department.

TOWING BUSINESS – A business engaged in or offering the services of a vehicle wrecker or towing service whereby motor vehicles are towed or otherwise removed from one location to another by use of a vehicle specifically designed and equipped for that purpose.

BUSINESS – A business entity that files a separate and distinct federal income tax return. **(Amended 11-24-92)**

§ 220.3 Minimum requirements for a registered towing business

The following minimum regulations must be met on a continuous basis by the registered towing business.

- A Each registrant shall own and operate its own wrecker(s) and shall supply to the Chief of Police satisfactory evidence including vehicle registration and title, if applicable, a notarized bill of sale or a notarized lease agreement, to show ownership by the resident towing business. **[Amended 11/28/95]**
- B Each towing business shall maintain satisfactory levels of insurance as described in 220-4.

- C In registering, a towing business shall hold the town harmless from all claims for damages to property and injuries to persons resulting from the towing business' negligence in the towing of or storage of vehicles pursuant hereto.
- D Each towing business shall maintain such records as hereinafter may be required by the Chief of Police and shall permit their inspection during normal business hours. Among other requirements, the Chief of Police may require that a prescribed vehicle accident-damage form be completed prior to towing any vehicle; that a receipt be kept, acknowledged by the claimant of a towed vehicle, showing all charges assessed for towing, storage and repair, and that all records indicate the place of vehicle storage and any damage sustained during or after the towing operation.
- E Each registrant shall permit the Chief of Police or his designee to conduct regular inspections of each towing vehicle and of each storage area during normal business hours.
- F Licensees shall arrive on the scene within thirty (30) minutes of receipt of a request for service from the Police Department.
- G Vehicles must be towed, not driven to storage lots.
- H No vehicle shall be towed to a lot outside the town
- I At the request of the police, a towing business shall clean the accident area of any debris resulting from the accident
- J Each licensee shall comply with all applicable state, federal and local laws and regulations, including the Land Use Ordinance of the Town of Windham. **(Amended 3-14-88)**
- K Once approved by the Town, each licensed towing vehicle will be referenced by a sticker to be affixed by the Town. No vehicle shall have more than one (1) Town of Windham towing sticker.

§ 220.4 Insurance required. (Amended 3-14-89)

- A No towing business shall be issued a license until the applicant has deposited with the Chief of Police a certificate of insurance, indicating the following coverages:
 - 1 Garage keeper's policy, covering fire, theft, wind storm, vandalism and explosion in the amount of at least twenty-five thousand dollars (\$25,000)
 - 2 Garage keeper's liability policy, covering the operation of the applicant's business, equipment and vehicles for any bodily injury or property damage.

This policy shall be in the minimum single limit amount of three hundred thousand dollars (\$300,000).

- 3 Road service liability, covering the lifting, hoisting and towing of vehicles in the minimum of twenty-five thousand dollars (\$25,000).
- B Each policy shall contain an endorsement from the insurer providing thirty (30) days' notice to the town before cancellation or amendment of the policy.
- C Failure to maintain the required insurance in force shall result in the immediate termination of the towing business' license without any action on the part of the town

§ 220.5 Towing rotation list.

- A Those towing businesses wishing to be placed on the towing rotation list shall complete a prescribed registration form at the Town Clerk's office and shall submit other required documents to the satisfaction of the Chief of Police or his designees.
- B Upon satisfactorily meeting the registration requirement as herein set forth, the towing business' name and phone number shall be placed on the towing rotation list, which shall be utilized in response to non-preference requests in which a vehicle is to be towed from a public way or public property or from any private property at the request or direction of the town.
- C When a request for towing a vehicle is received at the Police Department, the dispatcher or his/her supervisor shall select the name of the towing business from the towing rotation list. Names shall be selected on a rotating basis; that is, the name shall be selected which next succeeds the last towing business called for towing services. The selections shall proceed in this manner until the end of the list is reached, at which point a towing business shall be selected from the top of the list, and so on, consecutively.
- D The dispatcher shall dial a single and separate telephone number when contacting each towing business. This telephone call shall be considered a telephone request. If the telephone request is not confirmed within three (3) minutes, the lack of response shall be considered a Failure to Respond – Level A subject to two (2) performance debits. If the towing business is unable to or chooses not to accept the request for service, and they respond to the telephone request with the three (3) minute time frame, it shall be considered as a Failure to Respond – Level B subject to one (1) performance debit.
- E Those towing businesses maintaining more than one (1) towing vehicle shall be selected only once during each rotation of the towing rotation list.

§ 220.6 Additional regulations.

- A No towing business shall respond to the scene of an accident or other emergency unless specifically called there by the Police Department or the person involved in the accident or emergency. It is intended that no towing business owner, his agent or employee solicit towing contracts at the scene. However, nothing in this section shall be construed as prohibiting a towing business from privately contracting with any person.
- B In the event that a vehicle owner or operator requests a wrecker of his own preference, the Police Department will attempt to secure the services of the wrecker chosen, provided they are reasonably available, given the nature of the circumstance.
- C In the event that towing services are performed by other than the next wrecker on the towing rotation list, e.g, when the vehicle owner selects his own wrecker, then the towing rotation list shall be disregarded and the manner of the rotation shall be unchanged.
- D. In the event that a towing business incurs four (4) consecutive performance debits or accumulates a total of seven (7) performance debits during a license year that business shall be suspended from the towing rotation list for a ninety (90) day period.

§ 220.7 Special Conditions.

At his discretion, the Chief of Police or his designee may select a towing business that does not appear on the towing rotation list sequence when warranted by the requirement for special equipment and procedures or when due to the location or exigent circumstances surrounding vehicle removal.

§ 220.8 Nonexclusivity

Nothing in these regulations should be construed as creating vested exclusive rights of a towing business to be called or selected for a towing operation requested by an employee or official of the Town of Windham; neither are the provisions contained herein designed or intended to restrain the course of free trade nor restrict the number of qualified registrants on the towing rotation list.

§ 220.9 Removal from towing list.

The Chief of Police may remove or suspend any registrant from the towing rotation list when the Chief finds:

- A That the towing *rotation* list registration was secured by fraud or by concealment of a material fact by the *towing business* owner that such fact, if known, would have caused disqualification.
- B That the *towing business* owner has violated any of the requirements or regulations established herein.
- C That the town is not satisfied with the general services of the *towing business* or its employees or with the cooperation it has received when services are rendered.
- D. *A towing business may voluntarily suspend itself from the towing rotation list for a specific period of time due to health concerns, equipment failure, or vacation as long as proper notice has been provided to the Chief of Police.*

§ 220.10 Term of license

Licenses shall remain in effect for one (1) year, terminating on ~~March 1~~ May 15 annually, unless terminated or revoked as provided herein

§ 220.11 License fee.

An annual license registration fee for each towing business requesting placement on the towing rotation list shall be one hundred dollars (\$100). An annual vehicle administrative fee for each vehicle shall be fifty dollars (\$50). These fees will be payable in advance and non-refundable. These fees are not in lieu of required state inspections, but merely to assure that the vehicles are properly registered, have an appropriate inspection sticker and meet the requirements of this ordinance.

§ 220.12 Regulation of rates.

Maximum rates for services regulated by this chapter may be established.

§ 220.13 Appeal

Any license aggrieved by the actions of the Chief of Police taken pursuant to 220-9 hereof may appeal to the municipal officers, in writing, within ten (10) days of such actions. After a hearing, which must be held within two (2) weeks of filing of the appeal, the municipal officers may reverse, nullify or sustain the decision of the Chief.



WINDHAM POLICE DEPARTMENT

375 Gray Road, Windham, Maine 04062 • (207) 892-2525

Kevin L. Schofield
Chief of Police
Lt. James C. Boudreau
Executive Officer

MEMORANDUM

To : Tony Plante, Town Manager
From : Kevin L. Schofield; Chief of Police *KLS*
Date : September 18, 2015
Re : Town of Windham Towing Ordinance Section 220.12

The purpose of this memo is to make recommendations on establishing a fee schedule for the Town of Windham Towing Ordinance. Currently there is no fee schedule in the ordinance; however Section 220.12 allows for the establishment of maximum fees under the ordinance. These fees will only apply to police related or requested tow work. As we have discussed, I began reviewing our ordinance after receiving concerns from citizens regarding the cost of two issues pertaining to a tow job and storage fees.

The methodology used to make this proposal was as follows: Lieutenant Jim Boudreau and I researched several other communities' ordinances for fee schedules for various services provided by tow companies. Once this data was gathered it was put into a spreadsheet for the ease of analysis and comparison. Letters and/or emails were sent out inviting all of the companies who are currently listed on the Police Department's tow rotation inviting them to a meeting at the public safety building on Thursday evening September 17th.

This meeting was well attended, with only one company unable to attend. After introductions, I explained that my goal for establishing rate fees was to provide consistent fees for maximum rates for police related tows and tow services. I explained to everyone that my goal was to set fees that considered both reasonable rates for consumers while allowing for a reasonable profit for our business owners. I also underscored that when performing Police related tows, the companies are in essence representing the Police Department and the Town of Windham and I feel that consistent set maximum fees are in everyone best interest.

As a group, we reviewed the attached spread sheet to determine what services we should set fees for and what those fees should be. The table below represents the consensus of the group:

Non- crash tow	Day time \$95	Night time \$115
Crash tow	Day time \$110	Night time \$130
Snow removal tow	Day time \$95	Night time \$115
Pull out same as non-crash	Day time \$95	Night time \$115
Storage fees **after 24 hrs.	Outside \$50 per day	Inside \$75
Recovery / extraction fees	\$90 per hr.	\$22.50 per 15 min after 1 st hr
After hours release * <i>after 6PM weekends & holidays</i>	\$35.00	

Daytime: 6:00 AM- 6PM
 Night Time 6PM to 6 AM

During the meeting and afterward, the general tone was that these fees were reasonable and people felt that they were satisfied with having the level of input into these recommendations. I would like to present these fee proposals to our Town Council at the earliest convenience.